

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF PENNSYLVANIA**

JAMAR TRAVILLION,)	
)	
Plaintiff,)	Civil Action No. 07-928
)	
v.)	Judge Cercone
)	Magistrate Judge Bissoon
ALLEGHENY COUNTY BUREAU OF)	
CORRECTIONS, <i>et al.</i> ,)	
)	
Defendants.)	

MAGISTRATE JUDGE'S REPORT AND RECOMMENDATION

I. RECOMMENDATION

For the reasons that follow, it is respectfully recommended that Plaintiff's Motion for Summary Judgment addressed to the Allegheny County Defendants¹ (Doc. 144) be denied.

II. REPORT

Plaintiff Jamar Travillion is an inmate confined at the State Correctional Institution at Rockview, located in Bellefonte, Pennsylvania. Travillion alleges that he was assaulted on July 2, 2005, while incarcerated at the Allegheny County Jail ("Jail"), and that this was done in retaliation for lawsuits he previously filed against the Jail and Jail personnel. Travillion also asserts numerous other claims of improper treatment that purportedly occurred on dates subsequent to July 2, 2005, extending into 2006. He asserts claims under the First, Fourth, Fifth, Eighth and Fourteenth Amendments to the United States Constitution, various articles of the

¹ Defendants Allegheny County Bureau of Corrections, Onorato, Rustin, Reese, Pofi, Flood, Maust, Henna, Louis Leon, Cestra, Demore, Igims, Pfeifer, Kovacs, Rapneth, Deisher, Youker, Debrowski, Jialanella, Yannotti, Bednarick, Greenawalt, Parkenson, Corrado and Crossey will be referred to collectively as the "Allegheny County Defendants."

Pennsylvania Constitution, and common law claims for assault and battery, conversion, medical malpractice and the intentional infliction of emotional distress.

Plaintiff has filed a Motion for Summary Judgment (Doc. 144) and a Brief in Support (Doc. 145) in which he asserts that he is entitled to summary judgment because none of the factual averments in his Complaint have been denied by the Allegheny County Defendants (Doc. 145, pp. 5-6). The Allegheny County Defendants had not, in fact, filed an Answer at the time Plaintiff's Motion for Summary Judgment was filed, but have since done so and have denied all material allegations in Plaintiff's Complaint (Doc. 167).

The sole basis for Plaintiff's Motion for Summary Judgment (i.e., the Allegheny County Defendants' failure to respond to the Complaint) has been defeated by the filing of an Answer (Doc. 167). Plaintiff's Motion for Summary Judgment (Doc. 144) must, therefore, be denied.

In accordance with the Magistrates Act, 28 U.S.C. § 636(b)(1)(B) and (C), and Rule 72.D.2 of the Local Civil Rules for Magistrates, objections to this Report and Recommendation are due by February 4, 2010. Failure to timely file objections may constitute a waiver of any appellate rights.

Dated: January 21, 2010

s/Cathy Bissoon
Cathy Bissoon
United States Magistrate Judge

cc:
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